Supreme Court, U. S.
FILED
NOV 15 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975.

No. 75-572

LEVA ADKINS, *Petitioner,*

vs.

THE HONORABLE ROBERT C. UNDERWOOD; THE HONORABLE WALTER V. SCHAEFER; THE HONORABLE DANIEL P. WARD; THE HONORABLE JOSEPH H. GOLDENHERSH; THE HONORABLE THOMAS E. KLUCZYNSKI; THE HONORABLE HOWARD C. RYAN; THE HONORABLE CHARLES H. DAVIS; THE HONORABLE CHARLES J. SMITH, *Respondents.*

MEMORANDUM FOR RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

WILLIAM J. SCOTT,
Attorney General, State of Illinois,
160 North LaSalle Street,
Chicago, Illinois 60601,

FRED F. HERZOG,
First Assistant Attorney General,
State of Illinois,
160 North LaSalle Street,
Chicago, Illinois 60601,
Attorneys for Respondent.

PHILIP B. KURLAND,
ALAN L. UNIKEL,
Special Assistant Attorneys General,
State of Illinois,
ROTHSCHILD, BARRY & MYERS,
Two First National Plaza,
Chicago, Illinois 60603,
372-2345,
Of Counsel.

Gunthorp-Warren Printing Company, Chicago • Financial 6-6565 86

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975.

No. 75-572.

LEVA ADKINS,

Petitioner,

vs.

THE HONORABLE ROBERT C. UNDERWOOD; THE HONORABLE WALTER V. SCHAEFER; THE HONORABLE DANIEL P. WARD; THE HONORABLE JOSEPH H. GOLDENHERSH; THE HONORABLE THOMAS E. KLUCZYNSKI; THE HONORABLE HOWARD C. RYAN; THE HONORABLE CHARLES H. DAVIS; THE HONORABLE CHARLES J. SMITH,

Respondents.

MEMORANDUM FOR RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

Petitioner has chosen to raise questions here that she might have raised on a petition for certiorari from the judgment of the Supreme Court of Illinois. It is obvious that the failure to file the petition from that judgment can be attributed to the insubstantiality of these issues. They gain no more substance by being raised in a form of collateral attack for which the law does not provide. The essence of the rulings below is that § 1983

does not afford a vehicle for review of state court judgments by federal trial courts. To allow review here would be to create a new six-tier system in civil cases; cases originating in the Illinois trial court would become in turn reviewable by the Illinois Appellate Court, by the Illinois Supreme Court, by the United States District Court, by the United States Court of Appeals, and then by this Court. The judgments of the District Court and the Court of Appeals in this case afford convincing arguments why certiorari should not be granted here.

The District Court dismissed petitioner's complaint for the reasons that: (1) the federal district court could not sit as a court of review of state supreme court judgments; and (2) the complaint failed to state a claim under 42 U. S. C. § 1983 on which relief could be granted.

On appeal, the Court of Appeals for the Seventh Circuit affirmed on the ground that petitioner's complaint failed to state a claim on which relief could be granted. The court held that there were and could be no allegations of purposeful conspiracy, that the Illinois proceedings were a sham, or that the justices invidiously used their office to deprive petitioner of her rights. Further, the court held that the Illinois court, in ordering dismissal, followed a well-established policy of allowing non-resident access to Illinois courts and of even-handed application of the *forum non conveniens* doctrine. The Court of Appeals found, as well, that the state's implementation of its procedural policy presented no federal constitutional question. There are other adequate grounds on which the judgment could have rested, but which the lower courts found unnecessary to a determination of the case, including judicial immunity, res judicata, collateral estoppel, and failure to join indispensable parties.

We respectfully submit that this petition should be denied.

Respectfully submitted,

WILLIAM J. SCOTT,
Attorney General, State of Illinois,
160 North LaSalle Street,
Chicago, Illinois 60601,

FRED F. HERZOG,
First Assistant Attorney General,
State of Illinois,
160 North LaSalle Street,
Chicago, Illinois 60601,
Attorneys for Respondent.

PHILIP B. KURLAND,
ALAN L. UNIKEL,
Special Assistant Attorneys General,
State of Illinois,
ROTHSCHILD, BARRY & MYERS,
Two First National Plaza,
Chicago, Illinois 60603,
372-2345,
Of Counsel.